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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,638	08/02/2000	Kevin M. Moore	1533.0980001/SRL/PAJ	8662

7590 11/23/2004

Jesse A. Hirshman, ESQ  
Kirkpatrick & Lockhart, LLP  
Henry W. Oliver Building  
535 Smithfield Street  
Pittsburg, PA 15222-2312

EXAMINER

NAFF, DAVID M

ART UNIT

PAPER NUMBER

1651

DATE MAILED: 11/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/631,638

**Applicant(s)**

MOORE ET AL.

**Examiner**

David M. Naff

**Art Unit**

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,5-7,9-17 and 21-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 5-7, 9-17 and 21-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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**DETAILED ACTION**

An amendment of 9/1/04 amended claims 1, 5-7, 9-13, 16, 17, 21-28 and 31.

Claims examined on the merits are 1, 5-7, 9-17 and 21-31, which  
5 are all claims in the application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 112***

Claims 1, 5-7, 9-17 and 21-31 are rejected under 35 U.S.C. 112,  
10 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 6 of claim 1 and bridging lines 5 and 6 of claim 17, there is not clear antecedent basis for "said organism". The claims  
15 previously recite "microorganism", and "organism" should be changed to --- microorganism ---.

In line 2 of dependent claim 7, "reaction" should be deleted since there is not clear antecedent basis for "the reaction temperature". Step (b) of claim 1 does not require a reaction.

20 In line 2 of dependent claim 9 and line 1 of dependent claim 11, --- strong --- should be inserted before "acid" to be clear that the acid is the strong acid and not the organic acid also present in step (c) of claim 1.

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In line 1 of step (c) claim 17, "step (a)" should be changed to -  
-- step (b) ---, which is the step that produces the dried product  
required in step (c).

In line 1 of step (d) of claim 17, "step (b)" should be changed  
5 to --- step (c) ---, which is the step that produces the alcoholic  
suspension required in step (d).

### **Conclusion**

The claims are free of the prior art.

Applicant's amendment necessitated the new ground(s) of rejection  
10 presented in this Office action. Accordingly, **THIS ACTION IS MADE**  
**FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension  
of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is  
set to expire THREE MONTHS from the mailing date of this action. In  
15 the event a first reply is filed within TWO MONTHS of the mailing date  
of this final action and the advisory action is not mailed until after  
the end of the THREE-MONTH shortened statutory period, then the  
shortened statutory period will expire on the date the advisory action  
is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be  
20 calculated from the mailing date of the advisory action. In no event,  
however, will the statutory period for reply expire later than SIX  
MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier  
communications from the examiner should be directed to David M. Naff

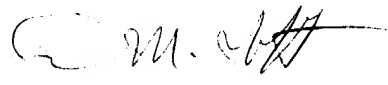
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whose telephone number is 571-272-0920. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 571-272-

5 0926. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained  
10 from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-  
15 9197 (toll-free).

  
David M. Naff  
Primary Examiner  
Art Unit 1651

DMN

11/19/04